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8 Attorneys for Plaintiff  
9 UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 STEVO MIJANOVIC,

16 Defendant.  
17  
18

CR No. 22-253-RGK

GOVERNMENT'S SENTENCING POSITION  
FOR DEFENDANT STEVO MIJANOVIC

Hearing Date: 6-26-2023

Hearing Time: 10:00 A.M.

19 Plaintiff United States of America, by and through its counsel  
20 of record, the United States Attorney for the Central District of  
21 California and Assistant United States Attorney Jennifer Y. Chou,  
22 hereby files its sentencing position as to defendant STEVO  
23 MIJANOVIC.

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1 **I. INTRODUCTION**

2 Defendant STEVO MIJANOVIC ("defendant") pleaded guilty on March  
3 6, 2023, pursuant to a plea agreement, to counts six and eight of  
4 the indictment, which charge defendant with robbery, in violation of  
5 18 U.S.C. § 1951(a), and count seven, which charges defendant with  
6 brandishing a firearm in furtherance of a crime of violence, in  
7 violation of 18 U.S.C. § 924(c)(1)(A)(ii).

8 On May 19, 2023, the Probation Office disclosed the Presentence  
9 Report ("PSR"). The PSR's calculations regarding the applicable  
10 United States Sentencing Guidelines, Nov. 1, 2021 ed. ("U.S.S.G." or  
11 "Sentencing Guidelines") as to counts six and eight are set forth at  
12 paragraphs 37 to 105 of the PSR. The PSR's calculations differ  
13 slightly from the parties' stipulated calculations set forth in  
14 paragraph 16 of the plea agreement in two ways, discussed further  
15 below. Pursuant to paragraph 16 of the plea agreement, which  
16 acknowledges the parties' right to argue for the application of  
17 additional specific offense characteristics, the government concurs  
18 with the PSR's calculated Guidelines as follows:

19 Group 1: Pregio Robbery

20 Base Offense Level : 20 [USSG § 2B3.1(a)]  
21 Brandished Dangerous  
22 Weapon : +3 [USSG § 2B3.1(b)(2)(E)]  
23 Group 1 Offense Level : 23

24 Group 2: Dollar Tree Robbery

25 Base Offense Level : 20 [USSG § 2B3.1(a)]  
26 Brandished Dangerous  
27 Weapon : +3 [USSG § 2B3.1(b)(2)(E)]  
28 Group 2 Offense Level : 23

Group 3: Pollo Lico Robbery

Base Offense Level : 20 [USSG § 2B3.1(a)]  
 Brandished Firearm : +5 [USSG § 2B3.1(b)(2)(C)]  
 Group 3 Offense Level : 25

Group 4: Subway Robbery

Base Offense Level : 20 [USSG § 2B3.1(a)]  
 Brandished Firearm : +5 [USSG § 2B3.1(b)(2)(C)]  
 Restraint : +2 [USSG § 2B3.1(b)(4)]  
 Group 4 Offense Level : 27

Group 5: La Michoacana Ice Cream  
Attempted Robbery

Base Offense Level : 20 [USSG § 2B3.1(a)]  
 Otherwise Used Firearm : +6 [USSG § 2B3.1(b)(2)(C)]  
 Group 5 Offense Level : 26

Group 6: Shell Station Robbery

Base Offense Level : 20 [USSG § 2B3.1(a)]  
 Group 6 Offense Level : 20

Group 7: Mi Pueblito Robbery

Base Offense Level : 20 [USSG § 2B3.1(a)]  
 Otherwise Used Firearm : +6 [USSG § 2B3.1(b)(2)(C)]  
 Group 7 Offense Level : 26

Group 8: Chevron Station Robbery

Base Offense Level : 20 [USSG § 2B3.1(a)]  
 Otherwise Used Firearm : +6 [USSG § 2B3.1(b)(2)(C)]  
 Group 8 Offense Level : 26

Group 9: 7-Eleven Robbery

Base Offense Level : 20 [USSG § 2B3.1(a)]  
 Otherwise Used Firearm : +6 [USSG § 2B3.1(b)(2)(C)]  
 Group 9 Offense Level : 26

Grouping Adjustment

Highest Group Level	:	27	
Grouping Adjustment	:	+5	[USSG § 3D1.2(d)]
Early Acceptance of Responsibility	:	-3	[U.S.S.G. § 3E1.1]
Total Offense Level	:	29	

PSR ¶¶ 37-105.

The government also concurs with the PSR's determination that defendant has four criminal history points and a criminal history category of III (PSR ¶ 110-15), which results in an applicable Guidelines range of 108-135 months, plus a 7-year mandatory consecutive sentence for the conviction in count seven for brandishing a firearm in violation of 18 U.S.C. § 924(c)(1)(A)(ii).

For the reasons set forth below, the government recommends that the Court impose the following sentence: a term of imprisonment of 15 years, or 180 months, which consists of a sentence of 96 months to run concurrently for counts six and eight, followed by the mandatory consecutive 84-month sentence for count seven, followed by a five-year term of supervised release to include the stipulated provision that subjects defendant to suspicionless search, a mandatory special assessment of \$100, and mandatory restitution in the total amount of \$2,733. Based on defendant's lack of income and assets the government recommends that all fines be waived.

**II. SENTENCING GUIDELINES**

The government concurs with the PSR's Guidelines calculations, which differ from the stipulated calculations in two ways.

First, the PSR adds a three-level enhancement for brandishing a dangerous weapon to the pseudo counts for Count 1 (Pregio Pizza

1 robbery) and Count 2 (Dollar Tree robbery) because the toy pistol  
 2 defendant admitted carrying (rather than the actual revolver he used  
 3 in the later robberies) was "an object that is not an instrument  
 4 capable of inflicting death or serious bodily injury but (I) closely  
 5 resembles such an instrument; or (II) the defendant used the object  
 6 in a manner that created the impression that the object was such an  
 7 instrument." See Plea Agreement § 14; PSR ¶¶ 13-14 (describing  
 8 offense conduct); PSR ¶¶ 37-52 (citing USSG § 2B3.1(b)(2)(E) (two-  
 9 level increase for brandishing dangerous weapon); id. at § 1B1.1  
 10 n.1(E) (defining "dangerous weapon"))).

11 Second the PSR applies a two-level enhancement to pseudo count  
 12 4 for the Subway restaurant robbery because when defendant ordered  
 13 one victim employee (victim K.P.) at gunpoint to walk behind the  
 14 counter to open the register, he "physically restrained" the victim  
 15 "to facilitate commission of the offense." PSR ¶ 63 (citing United  
 16 States v. Thompson, 109 F.3d 639, 641 (9th Cir. 1997)); see Exhibit  
 17 A (redacted excerpt of police report of Subway robbery). The  
 18 government concurs. Defendant brandished the handgun and told  
 19 victim K.P. "Give me all your money," then "walked with K.P. behind  
 20 the counter to the cash register." Ex. A. Forcing K.P. to walk  
 21 behind the counter constitutes the "sustained focus on a restrained  
 22 person that lasts long enough for the robber to . . . order the  
 23 victim to walk somewhere." See United States v. Albritton, 622 F.3d  
 24 1104, 1107-08 (9th Cir. 2010) (emphasis omitted) (quoting United  
 25 States v. Parker, 241 F.3d 1114, 1118 (9th Cir. 2001)).

### 26 **III. ANALYSIS OF THE SECTION 3553(A) FACTORS**

27 The government submits that the factors set forth at 18 U.S.C.  
 28 § 3553(a) would be fulfilled by a sentence of no more than 15 years,

1 which is one year less than the low end of the applicable Guidelines  
2 sentencing range, adjusted to include the 7-year consecutive  
3 sentence for count seven. The § 3553(a) factors justify the slight  
4 variance and the 15-year sentence.

5 **A. 18 U.S.C. § 3553(a) (1)**

6 Section 3553(a) (1) requires the Court to consider the nature  
7 and circumstances of the offense and the history and characteristics  
8 of defendant. Here, defendant committed six armed robberies, one  
9 attempted armed robbery, and two robberies in which he brandished  
10 what appeared to be a firearm. He terrorized victim employees and  
11 bystanders at each location, using fear to obtain money from the  
12 victim businesses. As victim J.H. relayed in her victim impact  
13 statement, she was pregnant when defendant pointed a gun toward her  
14 and demanded that she open the register to give him money during the  
15 robbery of the Shell gas station. See PSR ¶ 18; see also Ex. B  
16 (redacted excerpt of police report of Shell robbery); Ex. C (screen  
17 still from surveillance video recording of Shell robbery). Victim  
18 J.H. miscarried shortly after the robbery, which she believes  
19 resulted from the fear and stress of the robbery. See Ex. D (J.H.  
20 Victim Impact Statement). As J.H. relayed in her statement:

21  
22 [O]n the day of the incident she thought she was going to  
23 be killed. The victim said it was the scariest moment of  
24 her life. The victim said that the fear and stress  
25 resulted in a miscarriage. At the time she was pregnant  
26 for more than a month. The victim said the robbery  
27 changed her. The victim said the only time she feels safe  
28 is when she is at home. When the victim is at work, she  
is apprehensive when customers come in and she will step  
away from behind the counter, out of fear. The victim  
said she is still fearful anxious, and expressed an  
interest in obtaining professional counseling/treatment.

1 Ex. D at 1. Moreover, J.H. "believes [defendant] will continue to  
2 commit robberies and she is fearful he may again target her  
3 workplace" if defendant is "released." Id. at 3.

4 Defendant's criminal history shows a long pattern from an early  
5 age of using force or fear to obtain property from others. In  
6 mitigation, it appears that defendant's criminal behavior is driven  
7 in part by his lack of housing or stable family support and his need  
8 to pay for food, clothing, and drugs to feed an ongoing long-term  
9 addiction. A 15-year sentence is sufficient but no greater than  
10 necessary to address this factor.

11 **B. 18 U.S.C. § 3553(a) (2)**

12 Section 3553(a) (2) requires the Court to consider the need for  
13 the sentence to reflect the seriousness of the offense, to promote  
14 respect for the law, to provide just punishment for the offense, to  
15 afford adequate deterrence to criminal conduct, to protect the  
16 public from further crimes of defendant, and to provide defendant  
17 with any needed training and treatment. These factors also support  
18 a sentence of 15 years' imprisonment. This sentence is sufficiently  
19 lengthy to protect the public and to deter defendant from committing  
20 future crimes. The sentence may also serve as a general deterrent  
21 to similarly-situated potential offenders. The sentence will also  
22 provide defendant with much-needed mental health and substance abuse  
23 treatment, as well as offering vocational and educational training  
24 to provide job skills for post-release opportunities. The 5-year  
25 period of supervised release will also offer him transitional and  
26 ongoing support upon his release from custody.



1           **C.     18 U.S.C. § 3553(a) (6)**

2           18 U.S.C. § 3553(a) (6) requires the Court to minimize  
3 sentencing disparity among similarly situated defendants. Using the  
4 Sentencing Guidelines to sentence defendant accomplishes this goal.  
5 Similarly situated defendants with the same criminal history would  
6 likely receive a sentence within the same range. See United States  
7 v. Saeteurn, 504 F.3d 1175, 1181 (9th Cir. 2007) ("Our sister  
8 circuits generally agree that 'Congress's primary goal in enacting  
9 § 3553(a) (6) was to promote national uniformity in sentencing rather  
10 than uniformity among co-defendants in the same case.'" (citations  
11 omitted). Here, the recommended sentence falls within the  
12 applicable Guidelines. A similarly-situated defendant would be  
13 subject to the same sentencing range.

14           **D.     THE REMAINING 3553(a) FACTORS ALSO SUPPORT THE SENTENCE**  
15                   **REQUESTED BY THE GOVERNMENT**

16           18 U.S.C. § 3553(a) (3) requires the Court to consider the kinds  
17 of sentences available. A 15-year period of imprisonment, followed  
18 by a 5-year period of supervised release, is a fair sentence, given  
19 the scope of potential harm of defendant's offense, and provides  
20 punishment that is sufficient but not greater than necessary to  
21 address the offense.

22           18 U.S.C. § 3553(a) (4) & (5) now merely require the Court to  
23 take the sentencing Guidelines as "advisory."

24           **IV.   THE STIPULATED SEARCH CONDITIONS SHOULD BE IMPOSED**

25           Defendant has stipulated to a condition of supervised release  
26 related to suspicionless search. See Plea Agreement ¶ 2(h).

27           Suspicionless search conditions both protect the public and  
28 deter recidivism, as offenders know that the chance of detection of

1 any criminal conduct is greater. The Ninth Circuit has upheld the  
2 imposition of suspicionless search conditions of supervised release.  
3 See United States v. Betts, 511 F.3d 872, 876 (9th Cir. 2007)  
4 (affirming suspicionless search condition in part because "the  
5 public is entitled to protection against the possibility" of  
6 recidivism); United States v. Tafelmeyer, 584 F. App'x 766, 767 (9th  
7 Cir. 2014) ("The district court did not abuse its discretion in  
8 imposing [a suspicionless search] condition of release because the  
9 condition reasonably furthers the goals of deterrence, protection of  
10 the public, and rehabilitation of the offender.") (citations and  
11 quotations omitted).

12 The Supreme Court has similarly upheld suspicionless search  
13 conditions on all parolees in California:

14  
15 California's ability to conduct suspicionless searches of  
16 parolees serves its interest in reducing recidivism, in a  
manner that aids, rather than hinders, the reintegration  
of parolees into productive society.

17 Samson v. California, 547 U.S. 843, 854 (2006).

18 Although the advisory Sentencing Guidelines recommend that  
19 search conditions require reasonable suspicion, see U.S.S.G.  
20 § 5D1.3(d) (7) (C), imposition of such conditions is both better  
21 policy and better practice, especially for this defendant. First,  
22 as both the Ninth Circuit and Supreme Court have held, it is the  
23 risk that those on supervision could be searched at any time, for  
24 any or no reason, that deters those offenders from possessing  
25 contraband or engaging in new criminal conduct, and therefore  
26 promotes rehabilitation and public safety. Conditioning searches  
27 upon a showing of reasonable suspicion makes them less likely and  
28 therefore less effective. Indeed, Samson rejected the argument that

1 reasonable suspicion should be required before an officer could make  
2 use of a search condition and criticized such restrictions for  
3 undercutting the safety and deterrence benefits suspicionless search  
4 conditions create, as the Ninth Circuit also recognized that  
5 “[i]mposing a reasonable suspicion requirement . . . would give  
6 parolees greater opportunity to anticipate searches and conceal  
7 criminality.” Betts, 511 F.3d at 876 (quoting Samson).

8       Additionally, a search condition that requires reasonable  
9 suspicion will result in confusion because it is contrary to  
10 California’s search condition scheme, and the overwhelming majority  
11 of law enforcement officers in our district has been trained in the  
12 state scheme. By state statute, all parolees are subject to “search  
13 or seizure by a probation or parole officer or other peace officer  
14 at any time of the day or night, with or without a search warrant or  
15 with or without cause.” Cal. Penal Code § 3067(b)(3) (emphasis  
16 added). There are well over 100,000 California released parolees  
17 subject to this condition. Samson, 547 U.S. at 853 (“As of November  
18 30, 2005, California had over 130,000 released parolees.”). Given  
19 the uniformity of California’s suspicionless search scheme, and the  
20 overwhelmingly larger numbers of state officers and state parolees,  
21 search conditions for federal and state supervisees should be  
22 consistent.

23       In order to make the proposed search condition effective, law  
24 enforcement officers must know that defendant is subject to search.  
25 The stipulated condition requires defendant to notify any law  
26 enforcement officer that he is on federal supervised release and  
27 subject to search.

A condition allowing for suspicionless searches is particularly important for this defendant, who possessed a firearm that he used to commit armed robberies, does not appear to have a fixed residence that can be monitored when he is released from custody, and is a daily drug user. In all, the case for imposing a suspicionless search condition on this particular defendant is much stronger than it was in other cases in which those conditions have been affirmed by the Supreme Court or Ninth Circuit. See, e.g., Samson, 547 U.S. 843 (affirming blanket suspicionless search condition on all California parolees; Betts, 511 F.3d 872 (affirming suspicionless search condition on first-time offender whose crime – taking bribes to delete negative credit information from Transunion’s database – would be difficult to detect by search).

The government hopes that the suspicionless search conditions will have the desired deterrent effect, particularly because defendant has lived the consequences of non-compliance. Moreover, knowing he is subject to suspicionless search at any time of day or night should act as a more effective deterrent than a condition based on reasonable suspicion – that is, a condition that makes no distinction between him and someone who does not have a proven history of engaging in armed robberies, burglaries, and drug use.

#### **V. RESTITUTION**

Defendant admitted that he obtained a total of \$2,733 from the eight victim businesses he robbed. As set forth in the PSR, the losses are as follows:

Victim Name	Amount of Loss
Pregio Pizza	\$80.00
Dollar Tree	\$138.00

1	Pollo Lico	\$585.00
2	Subway	\$150
3	Shell	\$180.00
4	Mi Pueblito Restaurant	\$1,000.00
5	Chevron	\$300.00
6	7-Eleven	\$300.00

7  
8 PSR ¶ 176; see Plea Agreement ¶ 14 (describing loss amounts from  
9 each victim). At this time, none of the victim businesses have  
10 submitted restitution requests or provided contact information.  
11 Should a victim provide that information to the Clerk's office or  
12 the Probation Office, restitution should be paid accordingly.  
13 Accordingly, the Court should order restitution as set forth above.

#### 14 **VI. CONCLUSION**

15 For all the foregoing reasons, the factors set forth in 18  
16 U.S.C. § 3553(a) support the imposition of a sentence of 15 years  
17 imprisonment, followed by a 5-year period of supervised release,  
18 mandatory restitution in the total amount of \$2,733, and a special  
19 assessment of \$100.